STATUTORY INSTRUMENTS

# 1965 No. 2045

# WAGES COUNCILS

## The Wages Regulation (Hollow-ware) (Holidays) Order 1965

*Made* - - - - 1*st December* 1965
*Coming into Operation* 20*th December* 1965

Whereas the Minister of Labour (hereafter in this Order referred to as " the Minister ") has received from the Hollow-ware Wages Council (Great Britain) the wages regulation proposals set out in the Schedule hereto;

Now, therefore, the Minister by virtue of the powers conferred on him by section 11 of the Wages Councils Act 1959(a), and of all other powers enabling him in that behalf, hereby makes the following Order:—

**1.** This Order may be cited as the Wages Regulation (Hollow-ware) (Holidays) Order 1965.

**2.**—(1) In this Order the expression " the specified date " means the 20th December 1965, provided that where, as respects any worker who is paid wages at intervals not exceeding seven days, that date does not correspond with the beginning of the period for which the wages are paid, the expression " the specified date " means, as respects that worker, the beginning of the next such period following that date.

(2) The Interpretation Act 1889(b) shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament and as if this Order and the Order hereby revoked were Acts of Parliament.

**3.** The wages regulation proposals set out in the Schedule hereto shall have effect as from the specified date and as from that date the Hollow-ware Wages Council (Great Britain) Wages Regulation (Holidays) Order 1952(c) shall cease to have effect.

Signed by order of the Minister of Labour 1st December 1965.

*L. J. Dunnett,*
Secretary,
Ministry of Labour.

SCHEDULE

The following provisions as to holidays and holiday remuneration shall be substituted for the provisions as to holidays and holiday remuneration set out in the Hollow-ware Wages Council (Great Britain) Wages Regulation (Holidays) Order 1952 (hereinafter referred to as " Order H.(60)").

(a) 7 & 8 Eliz. 2. c. 69. (b) 52 & 53 Vict. c. 63. (c) S.I 1952/1161 (1952 III, p. 3674).

## PART I
## APPLICATION

1. This Schedule applies to every worker for whom statutory minimum remuneration has been fixed.

## PART II
## CUSTOMARY HOLIDAYS

2.—(1) An employer shall allow to every worker in his employment to whom this Schedule applies a holiday (hereinafter referred to as a "customary holiday") in each year on the days specified in the next following sub-paragraph, provided that the worker:—

(*a*) was in his employment on the day immediately preceding the customary holiday;

(*b*) has performed some work for the employer during the period of twelve weeks immediately preceding the customary holiday; and

(*c*) (unless excused by the employer or absent by reason of the proved illness of the worker) has worked throughout the last working day on which work was available to him before the customary holiday.

(2) The said customary holidays are:—

(*a*) *up to and including 31st December 1965*

(i) in England and Wales—

Christmas Day (or, if Christmas Day falls on a Sunday, such weekday as may be appointed by national proclamation, or, if none is so appointed, the next following Tuesday), Boxing Day, Good Friday, Easter Monday, Whit Monday, August Bank Holiday *and one other day (being a day on which the worker normally works) in the course of a calendar year, to be fixed by the employer and notified to the worker;*

(ii) in Scotland—

New Year's Day (or, if New Year's Day falls on a Sunday, the following Monday);
the local Spring holiday;
the local Autumn holiday; and
*four* other days (being days on which the worker normally works) in the course of a calendar year, to be fixed by the employer and notified to the worker;

(*b*) *on and after 1st January 1966*

(i) in England and Wales—

Christmas Day (or, if Christmas Day falls on a Sunday, such weekday as may be appointed by national proclamation, or, if none is so appointed, the next following Tuesday), Boxing Day, Good Friday, Easter Monday, Whit Monday, August Bank Holiday *and two other days (being days on which the worker normally works) in the course of a calendar year, to be fixed by the employer and notified to the worker not less than three weeks before the holiday;*

(ii) in Scotland—

New Year's Day (or, if New Year's Day falls on a Sunday, the following Monday);
the local Spring holiday;
the local Autumn holiday; and
*five* other days (being days on which the worker normally works) in the course of a calendar year, to be fixed by the employer and notified to the worker not less than three weeks before the holiday;

or (*c*) in the case of each of the said days (other than a day fixed by the employer and notified to the worker as aforesaid), a day substituted therefor, being either a day recognised by local custom as a day of holiday in substitution for the said day, or a day fixed by agreement between the employer and the worker or his agent.

(3) Notwithstanding the preceding provisions of this paragraph, an employer may (except where in the case of a woman or young person such a requirement would be unlawful) require a worker who is otherwise entitled to any customary holiday under the foregoing provisions of this Schedule to work thereon, and, in lieu of any customary holiday on which he so works, the employer shall allow to the worker a day's holiday (hereinafter referred to as a "holiday in lieu of a customary holiday") on a weekday on which he would normally work for the employer within the period of four weeks next ensuing.

(4) A worker who is required to work on a customary holiday shall be paid:—

(*a*) for all time worked thereon at the minimum rate then appropriate to the worker for work on a customary holiday; and

(*b*) in respect of the holiday in lieu of the customary holiday, holiday remuneration in accordance with paragraph 6.

## PART III

## ANNUAL HOLIDAY

3.—(1) In addition to the holidays specified in Part II of this Schedule, and subject to the provisions of paragraph 4, an employer shall, between 1st April and 31st October 1966, and in each succeeding year between 1st April and 31st October, allow a holiday (hereinafter referred to as an "annual holiday") to every worker in his employment to whom this Schedule applies who has been employed by him during the 12 months immediately preceding the commencement of the holiday season for any of the periods of employment (calculated in accordance with the provisions of paragraph 11) set out in the appropriate table below and the duration of the annual holiday shall, in the case of each such worker, be related to his period of employment during that 12 months as follows:—

| Workers with a normal working week of six days | | Workers with a normal working week of five days or less | |
|---|---|---|---|
| Column 1<br>Period of employment | Column 2<br>Duration of annual holiday | Column 1<br>Period of employment | Column 2<br>Duration of annual holiday |
| Not less than 48 weeks ... ... ... ... ... ... | 12 days | Not less than 48 weeks ... ... ... ... ... ... | 10 days |
| " " " 44 " but less than 48 weeks ... ... | 11 " | " " " 43 " but less than 48 weeks ... ... | 9 " |
| " " " 40 " " " " 44 " ... ... | 10 " | " " " 38 " " " " 43 " ... ... | 8 " |
| " " " 36 " " " " 40 " ... ... | 9 " | " " " 33 " " " " 38 " ... ... | 7 " |
| " " " 32 " " " " 36 " ... ... | 8 " | " " " 28 " " " " 33 " ... ... | 6 " |
| " " " 28 " " " " 32 " ... ... | 7 " | " " " 24 " " " " 28 " ... ... | 5 " |
| " " " 24 " " " " 28 " ... ... | 6 " | " " " 19 " " " " 24 " ... ... | 4 " |
| " " " 20 " " " " 24 " ... ... | 5 " | " " " 14 " " " " 19 " ... ... | 3 " |
| " " " 16 " " " " 20 " ... ... | 4 " | " " " 9 " " " " 14 " ... ... | 2 " |
| " " " 12 " " " " 16 " ... ... | 3 " | " " " 4 " " " " 9 " ... ... | 1 day |
| " " " 8 " " " " 12 " ... ... | 2 " | | |
| " " " 4 " " " " 8 " ... ... | 1 day | | |

(2) Notwithstanding the provisions of the last foregoing sub-paragraph, the number of days of annual holiday which an employer is required to allow to a worker in any holiday season shall not exceed in the aggregate twice the number of days constituting the worker's normal working week.

(3) In this Schedule the expression "holiday season" means in relation to an annual holiday during the year 1966 the period commencing on 1st April 1966, and ending on 31st October 1966, and in relation to each subsequent year, the period commencing on 1st April and ending on 31st October in that year.

4.—(1) An annual holiday under this Schedule shall be allowed on consecutive working days, being days on which the worker is normally called upon to work for the employer, and days of annual holiday shall be treated as consecutive notwithstanding that a customary holiday on which the worker is not required to work for the employer or a holiday in lieu of a customary holiday intervenes:

Provided that where the duration of an annual holiday which an employer is required to allow to a worker exceeds the period constituting the worker's normal working week the said holiday may be allowed in two or more separate periods of such consecutive working days one of which shall not be less than the period of his normal working week.

(2) Subject to the provisions of sub-paragraph (1) of this paragraph, any day of annual holiday under this Schedule may be allowed on a day on which the worker is entitled to a day of holiday or to a half-holiday under any enactment other than the Wages Councils Act 1959.

5. An employer shall give to a worker reasonable notice of the commencing date or dates and duration of the period or periods of his annual holiday. Such notice may be given individually to the worker or by the posting of a notice in the place where the worker is employed.

## PART IV

## HOLIDAY REMUNERATION

### A—CUSTOMARY HOLIDAYS AND HOLIDAYS IN LIEU OF CUSTOMARY HOLIDAYS

6.—(1) Subject to the provisions of this paragraph, for each day of holiday to which a worker is entitled under Part II of this Schedule he shall be paid by the employer holiday remuneration equal to the amount which he would have been entitled to receive from the employer under the arrangement current immediately prior to the holiday if the day had not been a day of holiday and he had worked thereon for the number of hours usually worked by him on that day of the week:

Provided, however, that payment of the said holiday remuneration is subject to the condition that the worker presents himself for employment at the usual starting hour on the first working day following the holiday and works throughout that day or, if he fails to do so, failure is by reason of his proved illness or with the consent of the employer.

(2) In relation to a piece worker the provisions of sub-paragraph (1) of this paragraph shall have effect as if for the words "under the arrangement current immediately prior to the holiday" there were substituted the words "if he had been employed as a time worker at a time rate equal to the piece work basis time rate (being statutory minimum remuneration) then applicable to him and".

(3) The holiday remuneration in respect of any customary holiday shall be paid by the employer to the worker on the pay day on which the wages for the pay week including the first working day following the customary holiday are paid.

(4) The holiday remuneration in respect of any holiday in lieu of a customary holiday shall be paid on the pay day on which the wages for the pay week including the first working day following that holiday in lieu of a customary holiday are paid: Provided that the said payment shall be made immediately upon the termination of the worker's employment in the case where he ceases to be employed before being allowed a holiday in lieu of a customary holiday to which he is entitled, and in that case the proviso contained in sub-paragraph (1) of this paragraph shall not apply.

## B—ANNUAL HOLIDAY

7.—(1) Subject to the provisions of paragraph 10, a worker qualified to be allowed an annual holiday under this Schedule shall be paid by his employer in respect thereof, on the last pay day preceding such annual holiday, remuneration in accordance with the following table:—

TABLE OF HOLIDAY REMUNERATION

| Column 1 | Column 2 | | Column 3 |
|---|---|---|---|
| Period of annual holiday | Holiday remuneration for workers with a normal working week of— | | |
| | Six days | Five days or less | |
| 12 days ... | Twice the amount in Col. 3 | — | The amount which the worker would be entitled to receive from his employer for a week's work under the arrangement current immediately prior to the holiday, if working his normal working week and the number of daily hours usually worked by him (exclusive of overtime). |
| 11 „ ... | One and five-sixths times the amount in Col. 3 | — | |
| 10 „ ... | One and two-thirds times the amount in Col. 3 | Twice the amount in Col. 3 | |
| 9 „ ... | One and one-half times the amount in Col. 3 | One and four-fifths times the amount in Col. 3 | |
| 8 „ ... | One and one-third times the amount in Col. 3 | One and three-fifths times the amount in Col. 3 | |
| 7 „ ... | One and one-sixth times the amount in Col. 3 | One and two-fifths times the amount in Col. 3 | |
| 6 „ ... | The amount in Col. 3 | One and one-fifth times the amount in Col. 3 | |
| 5 „ ... | Five-sixths of the amount in Col. 3 | The amount in Col. 3 | |
| 4 „ ... | Two-thirds of the amount in Col. 3 | Four-fifths of the amount in Col. 3 | |
| 3 „ ... | One-half of the amount in Col. 3 | Three-fifths of the amount in Col. 3 | |
| 2 „ ... | One-third of the amount in Col. 3 | Two-fifths of the amount in Col. 3 | |
| 1 day ... | One-sixth of the amount in Col. 3 | One-fifth of the amount in Col. 3 | |

(2) In relation to a piece worker the provisions of the foregoing Table shall have effect as if in Column 3 thereof the words "under the arrangement current" were deleted and at the end thereof there were added the words "and if paid as a time worker at a time rate equal to the piece work basis time rate (being statutory minimum remuneration) then applicable to him."

(3) Where under the provisions of paragraph 4 an annual holiday is allowed in more than one period, the holiday remuneration shall be apportioned accordingly.

8. Where a worker ceases to be employed by an employer after the provisions of this Schedule become effective, the employer shall, immediately on the termination of the employment, pay to the worker accrued holiday remuneration in accordance with the following paragraph.

9.—(1) Subject to the provisions of this paragraph accrued holiday remuneration shall be payable in accordance with the following Table if the worker has in the 12 months commencing on 1st April 1965, and thereafter in any period of 12 months commencing on the 1st April been employed for any of the periods of employment specified in Column 1 or Column 2 of that Table, as the case may be.

(2) Accrued holiday remuneration is not payable in respect of any period of employment for which the worker has been allowed or become entitled to be allowed a holiday under this Schedule.

(3) Subject to the provisions of sub-paragraph (4) hereof, where a worker has been allowed in a holiday season part only of the annual holiday for which he has qualified under this Schedule, or under Order H.(60), and his employment is terminated before he becomes entitled to the rest of the annual holiday the accrued holiday remuneration payable shall be the appropriate amount under the following Table in respect of the qualifying period of employment less the amount received by the worker in respect of that part of the holiday which has been allowed.

(4) Any accrued holiday remuneration payable under the following Table shall be reduced by the amount of any accrued holiday remuneration already paid by the employer to the worker in pursuance of this Order or Order H.(60), in respect of the same period of employment or part thereof.

## TABLE OF ACCRUED HOLIDAY REMUNERATION PAYABLE ON TERMINATION OF EMPLOYMENT

| Column 1 Workers with a normal working week of six days | | Column 2 Workers with a normal working week of five days or less | | Column 3 |
|---|---|---|---|---|
| Period of employment | Accrued holiday remuneration | Period of employment | Accrued holiday remuneration | |
| After 48 weeks' employment calculated in accordance with the provisions of paragraph 11 | Twice the amount in Col. 3 | After 48 weeks' employment calculated in accordance with the provisions of paragraph 11 | Twice the amount in Col. 3 | |
| After 44 weeks' such employment ... | One and five-sixths times the amount in Col. 3 | After 43 weeks' such employment ... | One and four-fifths times the amount in Col. 3 | The amount which the worker would be entitled to receive from his employer, for a weeks' work, under the arrangement current immediately prior to the termination of his employment, if working his normal working week and the number of daily hours usually worked by him (exclusive of overtime). |
| After 40 weeks' such employment ... | One and two-thirds times the amount in Col. 3 | After 38 weeks' such employment ... | One and three-fifths times the amount in Col. 3 | |
| After 36 weeks' such employment ... | One and one-half times the amount in Col. 3 | After 33 weeks' such employment ... | One and two-fifths times the amount in Col. 3 | |
| After 32 weeks' such employment ... | One and one-third times the amount in Col. 3 | After 28 weeks' such employment ... | One and one-fifth times the amount in Col. 3 | |
| After 28 weeks' such employment ... | One and one-sixth times the amount in Col. 3 | After 24 weeks' such employment ... | The amount in Col. 3 | |
| After 24 weeks' such employment ... | The amount in Col. 3 | After 19 weeks' such employment ... | Four-fifths of the amount in Col. 3 | |
| After 20 weeks' such employment ... | Five-sixths of the amount in Col. 3 | After 14 weeks' such employment ... | Three-fifths of the amount in Col. 3 | |
| After 16 weeks' such employment ... | Two-thirds of the amount in Col. 3 | After 9 weeks' such employment ... | Two-fifths of the amount in Col. 3 | |
| After 12 weeks' such employment ... | One-half of the amount in Col. 3 | After 4 weeks' such employment ... | One-fifth of the amount in Col. 3 | |
| After 8 weeks' such employment ... | One-third of the amount in Col. 3 | | | |
| After 4 weeks' such employment ... | One-sixth of the amount in Col. 3 | | | |

(5) In relation to a piece worker the provisions of the foregoing Table shall have effect as if in Column 3 thereof the words "under the arrangement current" were deleted and at the end thereof there were added the words "and if paid as a time worker at a time rate equal to the piece work basis time rate (being statutory minimum remuneration) then applicable to him."

10. Where in accordance with the provisions of this Schedule, or of Order H.(60), any accrued holiday remuneration has been paid by the employer to the worker in respect of any period of employment in the 12 months immediately preceding the holiday season within which an annual holiday is allowed by the employer to the worker in accordance with the provisions of this Schedule, the amount of holiday remuneration payable by the employer in respect of the said annual holiday under the provisions of paragraph 7 shall be reduced by the amount of the said accrued holiday remuneration unless that remuneration has been deducted from a previous payment of holiday remuneration made under the provisions of this Schedule or of Order H.(60).

## PART V

## GENERAL

11. For the purposes of calculating any period of employment qualifying a worker for an annual holiday or for any accrued holiday remuneration under this Schedule, the worker shall be treated—

(1) as if he were employed for a week in respect of any week in which—

(*a*) he has worked for the employer for not less than eight hours and has performed some work for which statutory minimum remuneration is payable;

(*b*) he has been absent throughout the week or has worked for the employer for less than eight hours by reason of the proved illness of, or accident to, the worker, provided that the number of weeks which may be treated as weeks of employment for such reasons shall not exceed eight weeks at any one time in the period of 12 months immediately preceding the commencement of the holiday season;

(*c*) he has been suspended throughout the week owing to shortage of work in the period of 12 months last mentioned; and

(2) as if he were employed on any day of holiday allowed under the provisions of this Schedule, or of Order H. (60), and for the purposes of the provisions of sub-paragraph (1) of this paragraph, a worker who is absent on such a holiday shall be treated as having worked thereon the number of hours ordinarily worked by him on that day of the week for the employer on work for which statutory minimum remuneration is payable.

12. In this Schedule, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

"normal working week" means the number of days on which it has been usual for the worker to work in a week in the employment of the employer in the 12 months immediately preceding the worker's first period of annual holiday or immediately preceding 17th October if no part of the annual holiday has been allowed before that date or, where under paragraphs 8 and 9 accrued holiday remuneration is payable on

the termination of the employment, in the 12 months immediately preceding the date of the termination of the employment:

Provided that—

(i) part of a day shall count as a day;

(ii) no account shall be taken of any week in which the worker did not perform any work for which statutory minimum remuneration has been fixed.

"statutory minimum remuneration" means minimum remuneration (other than holiday remuneration) fixed by a wages regulation order made by the Minister to give effect to the proposals submitted to him by the Council.

"week" in paragraphs 3 and 11 means "pay week".

13. The provisions of this Schedule are without prejudice to any agreement for the allowance of any further holidays with pay or for the payment of additional holiday remuneration.

## EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order, which has effect from the 20th December 1965, sets out the holidays which an employer is required to allow to workers and the remuneration payable to such workers for those holidays, in substitution for the holidays and holiday remuneration fixed by the Hollow-ware Wages Council (Great Britain) Wages Regulation (Holidays) Order 1952, (Order H. (60)), which is revoked.

New provisions are printed in italics.